

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

CUNNINGHAM ASSOCIATES, INC.,

Petitioner,

v.

KOMPAN A/S, KOMPAN INC.,

Respondents.

Case No. 3:25-mc-5

**MOTION TO QUASH SUBPOENA AND DEPOSITION NOTICES TO CUNNINGHAM
ASSOCIATES AND SCOTT CUNNINGHAM**

The Petitioner, Cunningham Associates, Inc. (“Cunningham Associates”) in the above-entitled action respectfully moves this court to quash the deposition notices and subpoena issued by Respondents Kompan A/S and Kompan Inc. (collectively “Respondents” or “Kompan”). In support of said Motion the Petitioner states as follows:

1. The Respondents are plaintiffs in a civil copyright infringement action pending in the United States District Court for the Western District of Texas, case caption, *Kompan v. GameTime, et al.*, case no. 1:21-cv-0877 (“Underlying Action”).

2. The Respondents, by and through counsel, served notices of deposition on Cunningham Associates and Scott Cunningham, the President of Cunningham Associates, non-parties to the Underlying Action, along with a subpoena seeking documents and deposition testimony on January 9, 2025, providing a date and time for said deposition of January 15, 2025 at 11:00 a.m. (collectively, the “Kopman Notices and Subpoena”).

3. The Kopman Notices and Subpoena are duplicative and impose an undue burden

on Cunningham Associates and Mr. Cunningham as non-parties inasmuch as discovery is now closed in the Underlying Action, and Cunningham Associates and Mr. Cunningham already participated in a deposition while discovery was open in the Underlying Action. Further, Respondents have failed to provide any basis for its untimely requests.

4. Additionally, the Kopman Subpoena is procedurally defective pursuant to Rule 30 of the Federal Rules of Civil Procedure in that Respondents failed to seek leave of court prior to taking more than ten depositions or re-deposing a party already deposed in a case.

5. In further support of this Motion, Petitioners refer this Court to their accompanying Memorandum in Support of Motion to Quash, which has been filed contemporaneously herewith and is incorporated herein by reference.

6. The undersigned states that, pursuant to Local Rule 7.1, counsel for Cunningham Associates and Mr. Cunningham have conferred with counsel for Cunningham in an attempt to resolve this dispute prior to filing this motion.

Wherefore, Mr. Cunningham and Cunningham Associates respectfully request that this Court enter an Order:

- (1) Quashing the January 9, 2025 subpoena issued to Cunningham Associates;
- (2) Quashing the deposition notices issued to Cunningham Associates and Mr. Cunningham; and
- (3) Awarding Mr. Cunningham and Cunningham Associates their costs and fees for preparing and filings this motion.

This 15th day of January, 2025 By: /s/ T. Richmond McPherson, III

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*Attorneys for Cunningham Associates, Inc. and Scott
Cunningham*

CERTIFICATE OF SERVICE

I hereby certify that on January 15, 2025, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to Respondents and emailed and mailed a copy of the foregoing by depositing a copy of same in the United States mail, postage prepaid, addressed to Respondents' counsel as follows:

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